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4 **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF**  
5 **LAKE WORTH BEACH, FLORIDA, ADOPTING CHAPTER 18**  
6 **“UTILITIES,” ARTICLE II “WATER UTILITY,” SECTION 18-21**  
7 **“WATER CONSERVATION AND IRRIGATION,” PROVIDING FOR**  
8 **LOCAL IMPLEMENTATION OF THE MANDATORY YEAR-ROUND**  
9 **LANDSCAPE IRRIGATION CONSERVATION MEASURES RULE OF**  
10 **THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT (40E-24,**  
11 **F.A.C.); PROVIDING FOR DEFINITIONS, APPLICABILITY OF THE**  
12 **ORDINANCE, A LANDSCAPE IRRIGATION SCHEDULE,**  
13 **EXCEPTIONS TO THE SCHEDULE, OTHER REQUIREMENTS,**  
14 **VARIANCES, ENFORCEMENT AND PENALTIES; RENUMBERING**  
15 **OF ARTICLE III “EMERGENCY WATER USE AND FOR OTHER**  
16 **PURPOSES; AND PROVIDING FOR SEVERABILITY, CONFLICTS,**  
17 **CODIFICATION AND AN EFFECTIVE DATE**  
18

19 **WHEREAS**, the City of Lake Worth Beach, Florida (the “City”), is a duly constituted  
20 municipality having such power and authority conferred upon it by the Florida Constitution  
21 and Chapter 166, Florida Statutes; and  
22

23 **WHEREAS**, the South Florida Water Management District (“District”) has the  
24 responsibility and exclusive authority under Chapter 373, Florida Statutes, for regulating  
25 the consumptive use of water; and  
26

27 **WHEREAS**, the District has promulgated Chapter 40E-2, Florida Administrative  
28 Code (F.A.C), for the consumptive use of water which includes Rule 40E-2.061, F.A.C.,  
29 General Consumptive Use Permits by Rule, regulating landscape irrigation at a single  
30 family dwelling or duplex, and Rule 40E-2.071, F.A.C., Noticed General and Individual  
31 Permits, regulating larger landscape irrigation users; and  
32

33 **WHEREAS**, the District promulgated and amended Chapter 40E-24, F.A.C.,  
34 requiring year-round irrigation conservation measures; and  
35

36 **WHEREAS**, Chapter 40E-24, F.A.C., applies to all users as defined in subsection  
37 40E-24.101(14), F.A.C., including permitted and exempt users under Chapter 40E-2,  
38 F.A.C.; and  
39

40 **WHEREAS**, Chapter 40E-24, F.A.C., calls for year-round and permanent  
41 landscape irrigation restrictions, separate and independent from water shortage  
42 declarations, in accordance with Chapter 40E-21, F.A.C.; and  
43

44 **WHEREAS**, Chapter 40E-24, F.A.C., applies to all landscape irrigation regardless  
45 of whether the water comes from ground or surface water, from a private well or pump,  
46 or from a public or private utility; and  
47

48 **WHEREAS**, Rule 40E-24.301, F.A.C., provides that local governments may adopt  
49 a landscape irrigation ordinance that achieves water conservation consistent with Rule  
50 40E-24.201, F.A.C., including variance and enforcement procedures; and

51           **WHEREAS**, to address utility operational, health, safety and landscape concerns,  
52 the City, which lies within Palm Beach County, a designated county under the Rule,  
53 wishes to allow landscape irrigation three days per week; and  
54

55           **WHEREAS**, the City Commission desires to adopt the encouraged ordinance,  
56 including variance and enforcement procedures; and  
57

58           **WHEREAS**, the City Commission finds and declares that the adoption of this  
59 ordinance is appropriate, and in the best interest of the health, safety and welfare of the  
60 City, its residents and visitors.  
61

62           **NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE**  
63 **CITY OF LAKE WORTH BEACH, FLORIDA:**  
64

65           **Section 1.** The whereas clauses are incorporated herein as true and correct and  
66 as the legislative findings of the City Commission.  
67

68           **Section 2.** Chapter 18 “Utilities,” Article II “Water Utility,” Section 18-21 “Water  
69 conservation and irrigation” is hereby adopted to read as follows:  
70

71 **Sec. 18-21. – Water conservation and irrigation.**  
72

- 73           (a) Intent and purpose; applicability.  
74           (1) Intent and purpose. It is the intent and purpose of this section to  
75 implement procedures that promote water conservation through the  
76 efficient use of landscape irrigation.  
77           (2) Applicability. The provisions of this section shall apply to each user  
78 providing landscape irrigation from all water resources within the  
79 boundaries of the city with the following exceptions:  
80           a. The use of reclaimed water, which may or may not be  
81 supplemented from another source;  
82           b. Irrigation at agricultural and nursery operations; and  
83           c. Irrigation of athletic play areas.  
84

- 85           (b) Definitions. The following words, terms and phrases, when used in this  
86 section, shall have the meanings listed below except where the context  
87 clearly indicates a different meaning.  
88

89           Address means the “house number” (a numeric or alphanumeric  
90 designation) that, together with the street name, describes the physical  
91 location of a specific property. This includes “rural route” numbers, but  
92 excludes post office box numbers. If a lot number in a mobile home park or  
93 similar community is used by the U.S. Postal Service to determine a delivery  
94 location, the lot number shall be the property’s address. If a lot number in a  
95 mobile home park or similar residential community is not used by the U.S.  
96 Postal Service (e.g., the park manager sorts incoming mail delivered to the  
97 community’s address), then the community’s main address shall be the

98 property's address. If a property has no address, it shall be considered  
99 "even-numbered."

100  
101 *Athletic play area* means all golf course fairways, tees, roughs, greens, and  
102 other athletic play surfaces; including, football, baseball, soccer, polo,  
103 tennis, and lawn bowling fields, and rodeo, equestrian, and livestock  
104 arenas.

105  
106 *Consumptive Use Permit (CUP)* means a permit issued pursuant to Chapter  
107 40E-2, F.A.C., authorizing the consumptive use of water.

108  
109 *District* means the South Florida Water Management District, a government  
110 entity created under Chapter 373, Florida Statutes.

111  
112 *Even numbered address* means an address ending in the numbers 0, 2, 4,  
113 6, 8, or rights-of-way or other locations with no address, or the letters A-M.

114  
115 *Existing landscaping* means any landscaping which has been planted and  
116 in the ground for more than ninety (90) days.

117  
118 *Landscaping* means shrubbery, trees, lawns, sod, grass, ground covers,  
119 plants, vines, ornamental gardens, and such other flora not intended for  
120 resale, which are situated in such diverse locations as residential  
121 landscapes, recreation areas, cemeteries, public, commercial, and  
122 industrial establishments, public medians, and rights-of-way, except athletic  
123 play areas.

124  
125 *Landscape irrigation* means the outside watering of shrubbery, trees, lawns,  
126 sod, grass, ground covers, plants, vines, ornamental gardens, and such  
127 other flora not intended for resale, which are planted and situated in such  
128 diverse locations as residential landscapes, recreation areas, cemeteries,  
129 public, commercial, and industrial establishments, public medians, and  
130 rights-of-way, except athletic play areas.

131  
132 *Law enforcement officials* mean any law enforcement officer employed by  
133 a law enforcement agency charged with the enforcement of laws of the city  
134 and state.

135  
136 *Low volume hand watering* means the watering of landscape by one (1)  
137 person, with one (1) hose, fitted with a self-canceling or automatic shutoff  
138 nozzle.

139  
140 *Low volume irrigation* means the use of equipment and devices specifically  
141 designed to allow the volume of water delivered to be limited to a level  
142 consistent with the water requirement of the plant being irrigated, and to  
143 allow that water to be placed with a high degree of efficiency in the root  
144 zone of the plant. The term also includes water used in mist houses and  
145 similar establishments for plant propagation. Overhead irrigation and flood  
146 irrigation are not included.

147 Micro-irrigation means the application of small quantities of water on or  
148 below the soil surface as drops or tiny streams of spray through emitter or  
149 applicators placed along a water delivery line. Micro-irrigation includes a  
150 number of methods or concepts, such as bubbler, drip, trickle, mist or  
151 microspray, and subsurface irrigation.

152  
153 New landscaping means any landscaping which has been planted in the  
154 ground for ninety (90) days or less.

155  
156 Odd numbered address means an address ending in the numbers 1, 3, 5,  
157 7, 9, or the letters N-Z.

158  
159 Reclaimed water means wastewater that has received at least secondary  
160 treatment and basic disinfection, and is reused after flowing out of a  
161 wastewater treatment facility as defined by Rule 62-40.210, F.A.C.

162  
163 User means any person, individual, firm, association, organization,  
164 partnership, business trust, corporation, company, agent, employee, or  
165 other legal entity whether natural or artificial, which directly or indirectly  
166 takes water from the water resource, including uses from private or public  
167 utility systems, uses under water use permits issued pursuant to Chapter  
168 40E-2, F.A.C., or uses from individual wells or pumps.

169  
170 Wasteful and unnecessary means allowing water to be dispersed without  
171 any practical purpose to the water use; for example, excessive landscape  
172 irrigation, leaving an unattended hose on a driveway with water flowing,  
173 allowing water to be dispersed in a grossly inefficient manner regardless of  
174 the type of water use; for example, allowing landscape irrigation water to  
175 unnecessarily fall onto pavement, sidewalks, and other impervious  
176 surfaces; or allowing water flow through a broken or malfunctioning water  
177 delivery or landscape irrigation system.

178  
179 Water resource means any and all water on or beneath the surface of the  
180 ground, including natural or artificial watercourses, lakes, ponds, or diffused  
181 surface water, and water percolating, standing, or flowing beneath the  
182 surface of the ground.

183  
184 Water shortage means when the District determines there is the possibility  
185 that insufficient water will be available to meet the present and anticipated  
186 needs of the users, or when conditions are such as to require a temporary  
187 reduction in total use within a particular area to protect water resources from  
188 serious harm. A water shortage usually occurs due to drought.

189  
190 Water shortage emergency means when the District determines the  
191 provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to  
192 protect the public health, safety, or welfare, the health of animals, fish, or  
193 aquatic life, a public water supply, or commercial, industrial, agricultural,  
194 recreational, or other reasonable-beneficial uses.

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- (c) Rules. The city hereby adopts the rules of the District, listed in subsection 40E-24.201 (1)-(5) and (7), F.A.C., including subsequent additions or corrections, which are set out as follows:
- (1) The year-round landscape irrigation conservation measures contained in this section 18-21 are applicable to all users including permitted and exempt users under Chapter 40E-2, F.A.C., unless otherwise indicated. These conservation measures apply to all water resources, unless otherwise indicated. In addition to the requirements of this section, all permitted users under Chapter 40E-2, F.A.C., are required to maintain compliance with all CUP conditions and terms, including requirements to implement water conservation practices.
  - (2) It shall be the duty of each user to keep informed as to the landscape irrigation conservation measures within this section which affect each particular water use.
  - (3) In addition to the specific conservation measures, all wasteful and unnecessary water use is prohibited.
  - (4) The following requirements shall apply to all users, unless specified in this subsection (c) or subsection (d) below.
    - a. Landscape irrigation shall be prohibited between the hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided.
    - b. Irrigation of existing landscaping shall comply with the following provisions:
      - i. Even addresses, installations with irrigation systems that irrigate both even and odd addresses within the same zones, such as multi-family units and homeowners' associations, and rights-of-way or other locations with no address shall have the opportunity to accomplish necessary landscape irrigation three (3) days a week, only on Sunday, Tuesday and/or Thursday.
      - ii. Odd addresses shall have the opportunity to accomplish necessary landscape irrigation three (3) days a week, only on Saturday, Monday and/or Wednesday.
    - c. Irrigation of new landscaping shall comply with the following provisions:
      - 1. New landscaping may be irrigated once on the day it is installed without regard to the listed watering days and times. Irrigation of the soil immediately prior to the installation of the new landscaping is allowed without regard to the normal watering days and times.
      - 2. A ninety (90) day establishment period begins on the day the new landscaping is installed. The new landscaping shall be installed within a reasonable time from the date of purchase, which may be demonstrated with a dated receipt or invoice.
      - 3. Irrigation of new landscaping which has been in place for thirty (30) days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday, Saturday, and/or Sunday.

242 4. Irrigation of new landscaping which has been in place for  
243 thirty-one (31) to ninety (90) days may be accomplished on  
244 Monday, Wednesday, Thursday, and/or Saturday.

245 5. Irrigation of new landscaping is limited to areas only  
246 containing the new landscaping. An entire zone of an irrigation  
247 system shall only be utilized for landscape irrigation under this  
248 subsection if the zone contains at least 50% new landscaping. If  
249 a zone contains less than 50% new landscaping, or if the new  
250 landscaping is in an area that will not typically be irrigated by an  
251 irrigation system, only the individual new plantings are eligible for  
252 additional irrigation. Targeted watering may be accomplished by  
253 low volume hand watering or any appropriate method which  
254 isolates and waters only the new landscaping.

255 (5) Any water shortage restrictions or other measures declared pursuant  
256 to Chapter 40E-21, F.A.C., or related District governing board or  
257 executive director orders which are more restrictive than a measure  
258 contained within this section, shall supersede this section for the  
259 duration of the applicable water shortage declaration.

260 (d) *Exceptions.* Landscape irrigation scheduling shall be subject to the  
261 following exceptions:

262 (1) Landscape irrigation systems may be operated during restricted days  
263 and/or times for cleaning, maintenance, and repair purposes with an  
264 attendant on site in the area being tested. Landscape irrigation  
265 systems may routinely be operated for such purposes no more than  
266 once per week, and the run time for any one (1) test should not exceed  
267 ten (10) minutes per zone.

268 (2) Landscape irrigation for the purpose of watering-in fertilizers,  
269 insecticides, pesticides, fungicides and herbicides, where such  
270 watering-in is recommended by the manufacturer, or by federal, state  
271 or local law, or best management practices, shall be allowed under the  
272 following conditions:

273 a. Such watering-in shall be limited to one (1) application, unless the  
274 need for more than one (1) application is stated in the directions  
275 for application specified by the manufacturer; and

276 b. Such watering-in shall be accomplished during normally  
277 allowable watering days and times set forth in subsection 18-  
278 21(c) unless a professional licensed applicator has posted a  
279 temporary sign containing the date of application and the date(s)  
280 of needed watering-in activity.

281 (3) Any plant material may be watered using low volume irrigation, micro-  
282 irrigation, low volume hand watering method, rain barrels, cisterns, or  
283 other similar rain-harvesting devices without regard to the watering  
284 days or times allowed pursuant to this section.

285 (e) *Additional requirements.* Any user who purchases and installs an automatic  
286 landscape irrigation system shall properly install, maintain, and operate technology that  
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289 inhibits or interrupts operation of the system during periods of sufficient moisture in  
290 accordance with section 373.62, Florida Statutes.

291  
292 (f) *Variances.*

293 (1) If a user wishes to request a variance from the specific day or days  
294 identified in subsection 18-21(c), the user may file a petition for variance or  
295 waiver, in a form satisfactory to the city, with the director of Water Utilities

296 (2) A variance from the specific day or days identified in subsection 18-  
297 21(c) may be granted by the city if strict application of the restrictions would  
298 lead to an unreasonable or unfair result; provided the applicant  
299 demonstrates with particularity that compliance with the schedule will result  
300 in substantial economic, health, or other hardship on the applicant or those  
301 served by the applicant. Further, relief may be granted only upon a  
302 demonstration that such hardship exists, is peculiar to the person or the  
303 affected property, is not self-imposed, and that granting the variance would  
304 be consistent with the general intent and purpose of this section.

305 (3) The decision of the city shall be final.

306 (4) If granted, the applicant shall be required to post a notice at each  
307 parcel to which the variance pertains.

308 (5) The city recognizes all irrigation variances or waivers issued by the  
309 District under Rule 40E-24.501, F.A.C.

310 (g) *Declaration of water shortage or water shortage emergency.* Declaration of  
311 a water shortage condition and/or water shortage emergency within all or parts of the city  
312 by the District's governing board or executive director shall supersede this section for the  
313 duration of the applicable water shortage declaration in accordance with the city's Water  
314 Shortage Emergencies set forth in Chapter 18, Article III Emergency Water Use. A water  
315 shortage usually occurs due to drought.

316  
317 (h) *Enforcement.*

318 (1) In the absence of a declaration of water shortage or water shortage  
319 emergency within all or any part of the city by the District's governing board  
320 or executive director, the listed landscape irrigation restrictions shall be  
321 subject to enforcement action.

322 (2) The city authorizes law enforcement officials to enforce the provisions  
323 of this section. In addition, the city manager may delegate this section's  
324 enforcement responsibility to departments within the city government.

325  
326 (i) *Penalties.*

327 (1) Violation of any provision of this section shall be subject to the  
328 following penalties:

329 1. First violations, a warning.

330 2. Second violations, a \$50.00 fine.

331 3. Third violations, a \$250.00 fine.

332 4. Fourth and subsequent violations, a \$500.00 fine.

333 (2) Each day a violation of this section occurs shall be a separate  
334 offense. Law enforcement officials, and others as delegated, may provide  
335 violators with no more than one (1) written warning. In addition to civil  
336 penalties, the city may take any other appropriate legal action, including but  
337 not limited to, injunctive action to enforce the provisions of this section.

338 **Secs. 18-22 – 18-23. – Reserved.**

339  
340 Section 3. Chapter 18 Utilities, Article III Emergency Water Use is hereby  
341 renumbered as follows.

342  
343 **ARTICLE III. – EMERGENCY WATER USE**

344  
345 **Sec. 18-2421. – Definitions.**

346 \* \* \*

347 **Sec. 18-2522. – Intent and purpose.**

348 \* \* \*

349 **Sec. 18-2623. – Applicability.**

350 \* \* \*

351 **Sec. 18-2724. – Enforcement.**

352 \* \* \*

353 **Sec. 18-2822. – Penalties.**

354 \* \* \*

355 **Sec. 18-2922. – Intent and purpose.**

356 \* \* \*

357

358 **Secs. 18-26 – 18-29. – Reserved.**

359

360 **Section 4. Severability.** If any section, subsection, sentence, clause, phrase or  
361 portion of this Ordinance is for any reason held invalid or unconstitutional by any court of  
362 competent jurisdiction, such portion shall be deemed a separate, distinct, and  
363 independent provision, and such holding shall not affect the validity of the remaining  
364 portions thereof.

365

366 **Section 5. Repeal of Laws in Conflict.** All ordinances or parts of ordinances in  
367 conflict herewith are hereby repealed to the extent of such conflict.

368

369 **Section 6. Codification.** The sections of the ordinance may be made a part of  
370 the City’s Code of Ordinances and may be re-numbered or re-lettered to accomplish such,  
371 and the word “ordinance” may be changed to “section”, “division”, or any other appropriate  
372 word.

373

374 **Section 7. Effective Date.** This ordinance shall become effective ten (10) days  
375 after its final passage.

376

377 The passage of this ordinance was moved by Vice Mayor McVoy, seconded by  
378 Commissioner Malega, and upon being put to a vote, the vote was as follows:

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380	Mayor Betty Resch	AYE
381	Vice Mayor Christopher McVoy	AYE
382	Commissioner Sarah Malega	AYE
383	Commissioner Kimberly Stokes	ABSENT
384	Commissioner Reinaldo Diaz	AYE



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The Mayor thereupon declared this ordinance duly passed on first reading on the 31<sup>st</sup> day of May, 2022.

The passage of this ordinance on second reading was moved by Commissioner \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and upon being put to a vote, the vote was as follows:

- Mayor Betty Resch
- Vice Mayor Christopher McVoy
- Commissioner Sarah Malega
- Commissioner Kimberly Stokes
- Commissioner Reinaldo Diaz

The Mayor thereupon declared this ordinance duly passed on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

LAKE WORTH BEACH CITY COMMISSION

By: \_\_\_\_\_  
Betty Resch, Mayor

ATTEST:

\_\_\_\_\_  
Melissa Ann Coyne, City Clerk